

REMARKS

The Examiner is thanked for the due consideration given the application. This amendment is being filed concurrent with a Request for Continued Examination.

Claims 33, 35, 36 and 38-63 are pending in the application. Claims 34 and 37 have been canceled by this amendment. Claim 33 has been amended to remove a phrase and to incorporate subject matter from claim 34, and the amendments to claim 33 also find support at page 3, lines 4-5 of the specification. Claim 36 has been amended to incorporate subject matter from claim 37 and the amendments to claim 36 also find support at page 3, lines 4-5 of the specification. Claims 41-44 have been amended to improve antecedence and to not depend on a canceled claim.

No new matter is believed to be added to the application by this amendment.

Rejection Under 35 USC §112, First Paragraph

Claims 33-35 and 37-60 have been rejected under 35 USC §112, second paragraph as failing to comply with the written description requirement. This rejection is respectfully traversed.

The Office Action asserts that the phrase "*self-test means is limited to generation of self-testing signals*" in claim 33 added in the previous response is not adequately supported by the disclosure.

However, this phrase has been removed from claim 33 without prejudice to thus moot this rejection.

This rejection is believed to be overcome, and withdrawal thereof.

Rejection Under 35 USC §112, Second Paragraph

Claims 33-35 and 37-60 have been rejected under 35 USC §112, second paragraph, as being indefinite. This rejection is respectfully traversed.

The Office Action asserts that the phrase "*activated independently of operation of the medical device and not by a signal from a processor associated with said medical device*" is vague. However, this phrase has been amended to recite "*activated independently of operation of the medical device and not by a signal from a common processor associated with said medical device,*" which is believed to be free from contradictory interpretations.

The claims are thus clear, definite and have full antecedent basis.

This rejection is believed to be overcome, and withdrawal thereof is respectfully requested.

Rejections Over OCHS et al.

Claims 33-41, 43, 47, 51, 53, 54, and 58-63 remain rejected under 35 USC §102(b) as being anticipated by or, in the alternative, under 35 USC §103(a) as unpatentable over OCHS et al. (U.S. Patent 5,899,925). Claims 42, 44-46, 48-50, 52 and

55-57 remain rejected under 35 USC §103(a) as being unpatentable over OCHS et al. These rejections are respectfully traversed.

The present invention provides a system in which the components making up a medical device each has its own self-test means which is activated independently of the main device processor. The present invention is exemplarily illustrated in Figure 3 of the application, which is reproduced below.

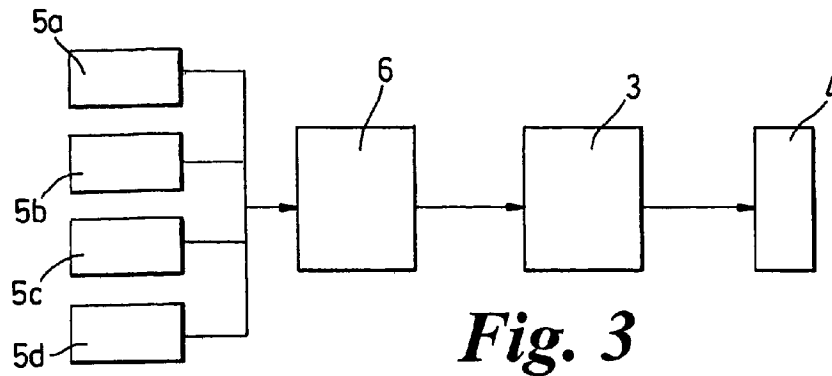


Figure 3 shows individual components 5a-5d, a summator 6, a processor 3 and an indicator 4.

As explained in previous responses, the present invention provides a system in which the several components making up a medical device each has its own self test means which activates independently of the main device processor. The limitation to "*dedicated*" additionally restricts the claim to arrangements in which the self test is initiated by a self test means that is dedicated to the particular component being tested, and so each self test means tests only one component. It follows that each component has its own self test means that operates

independently both of any processor that controls operation of the medical device and of the other self test means.

OCHS et al. pertain to aperiodic self-testing of a defibrillator. Figure 2 of OCHS et al. is reproduced below.

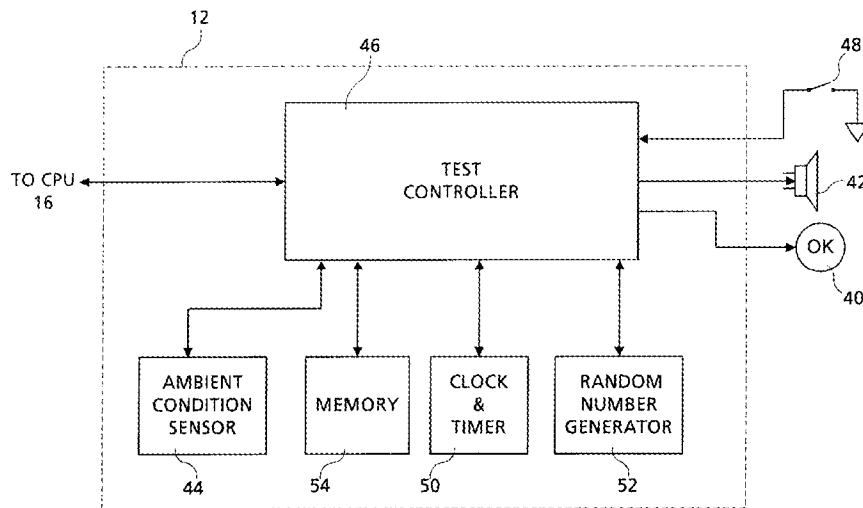


FIG. 2

Paragraph 10 of the Office Action argues that the self testing system of OCHS et al. includes "a plurality of components that carry out self test routines on the various components (e.g., Col. 3, line 60 - Col. 4, line 9)". However, closer inspection of the disclosure makes it clear that the system monitor 12 initiates testing (see Col. 3, line 49), and so the testing of the components is done under the common or central control of the system monitor.

The Office Action argues that it is the system monitor 12 and not the AED CPU 16 that generates the actuation signal but, as explained above, OCHS et al. still use a centralized or common processor. The applicant further believes that the system

monitor 12 of OCHS et al. is a 'processor' in the meaning of Claim 32, and therefore excluded from the claim. It appears that a part thereof is labeled as a controller in Figure 2, but the system monitor includes other components such as the memory and the clock. Also, in Col.4 lines 20 to 25 it is stated that the controller may be a CPU or microcontroller, which makes the system monitor 12 synonymous with a processor.

Paragraph 11 of the Office Action suggests it would be obvious to modify OCHS et al. to have individual system monitors. This however is quite contrary to the teaching of OCHS et al. which is to ensure that the testing of the various components is controlled by a common system monitor to ensure that the testing of the components is aperiodic. Clearly such control predicates a common system monitor.

Moreover, there are numerous passages that confirm that OCHS et al. require a single, common system monitor. In Col. 3, lines 54-59 it is stated: *"The System monitor applies test signals to the CPU via a communications channel, and the CPU controls and gathers information from various tested defibrillator components..."*. This shows that a single system monitor is taught. The above passage also shows that the CPU is directly involved in controlling and gathering information. Particularly, the comment in paragraph 23 of the Office Action that the CPU is not involved in the self-testing control is a

misinterpretation of the technology of OCHS et al., and this clearly is not the case.

In OCHS et al., the CPU delegates a part only of the central or common testing of the various components to a system monitor. The system monitor (a) is still a central/common processor associated with the device and (b) as set out above, the CPU is still in direct control. Thus the claim, as amended, is clearly distinguished from OCHS et al.

At Col. 4, lines 43 to 47 of OCHS et al., it is stated that *"...upon expiration of a given time interval, the clock and timer circuit [of the system controller] ... initiate the various defibrillator self test functions mediated by the test controller"*. This again emphasizes that the system /test controller supervises all of the tests, and also the requirement for it to mediate the test functions means that it must be in control of each of the test functions (and thus be common).

In contrast, in the present invention each component has a self test module, and each self test module generates a test signal independent of the overall device. As each self test module is independent none of the modules are common to the whole device. In OCHS et al., the system monitor generates the self test signal for the whole device and therefore, even if it is not physically associated with the device and powered by a separate power source, it is still common to the whole device as it still exerts control over every component.

Additional distinctions of the present invention over OCHS et al. were set forth in the previous responses. For brevity, these distinctions are not repeated here.

As a result, OCHS et al. fail to anticipate or render *prima facie* unpatentable the structures and functions set forth in independent claims 33, 36 and 61. Claims depending upon these independent claims are patentable for at least the above reasons.

These rejections are believed to be overcome, and withdrawal thereof is respectfully requested.

Conclusion

The prior art of record but not utilized is believed to be non-pertinent to the instant claims.

The rejections are believed to have been overcome, obviated or rendered moot, and no issues remain. The Examiner is accordingly respectfully requested to place the application in condition for allowance and to issue a Notice of Allowability.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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